

AMENDMENTS TO THE DRAWINGS

A replacement sheet for Figure 3 is attached to this reply. Applicant asserts that this replacement sheet is in accordance with 37 CFR § 1.84.

REMARKS

Please reconsider this application in view of the above amendments and the following remarks. Applicant thanks the Examiner for the courtesies extended during the Examiner Interview of November 17, 2008, and for indicating that claims 1, 7, 11, 16-22, 24, 25, 42-45, 49, 55, 59, 64-69, 71, 72, 81, 87, 88, 91, 96-102, 104, 105, 116-119, and 149-151 contain allowable subject matter. *See Action*, p 3.

Applicant notes that claims 42-45 and 116-119 are withdrawn. Applicant further notes that claim 88 is cancelled. Accordingly, Applicant assumes that the Examiner inadvertently included claims 42-45, 88, and 116-119 in the listing of claims comprising allowable subject matter. If Applicant's assumption is incorrect, Applicant respectfully requests that the Examiner specifically clarify the disposition of the claims in the next Action.

Disposition of Claims

Claims 1, 7, 11, 16-22, 24, 25, 42-45, 49, 55, 59, 64-69, 71, 72, 81, 87, 91, 96-102, 104, 105, 116-119, and 149-151 were pending in the application. By way of this reply, claims 42-45 and 116-119 are cancelled without prejudice or disclaimer. Accordingly, claims 1, 7, 11, 16-22, 24, 25, 49, 55, 59, 64-69, 71, 72, 81, 87, 91, 96-102, 104, 105, and 149-151 are now pending in the present application. Claims 1, 49, and 81 are independent. The remaining claims depend, either directly or indirectly, from claims 1, 49, and 81.

Claim Amendments

Claims 1, 49, and 81 are amended for clarification. Specifically, claims 1, 49, and 81 are amended to clarify the statutory subject matter of the claims. Applicant respectfully asserts that no new matter is added by way of these clarifying amendments.

Drawings

A replacement sheet for Figure 3 is enclosed with this reply. Applicant asserts no new matter has been introduced by way of this replacement sheet, and that this replacement sheet is in accordance with 37 CFR § 1.84. Applicant respectfully requests that the Examiner indicate whether the drawings are accepted in the next Office Action.

Rejections under 35 U.S.C. § 112

Claims 1, 7, 11, 16-22, 24, 25, 42-45, 49, 55, 59, 64-69, 71, 72, 81, 87, 88, 91, 96-102, 104, 105, 116-119, and 149-151 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. By way of this and a previous reply, claims 42-45, 88, and 116-119 are cancelled, and thus the rejection is moot as to those claims. As for the remaining claims, as asserted in the Examiner Interview Summary dated December 4, 2008 (hereinafter “Summary”), the 35 U.S.C. § 112 rejection “will be withdrawn” since the subject matter of the invention is not indefinite for failing to particularly point out and distinctly claiming the subject matter of the invention. *See*, Summary at page 2. Accordingly, withdrawal of this rejection is respectfully requested.

Rejections under 35 U.S.C. § 101

Claims 1, 7, 11, 16-22, 24, 25, 42-45, 49, 55, 59, 64-69, 71, 72, 81, 87, 88, 91, 96-102, 104, 105, 116-119, and 149-151 stand rejected under 35 U.S.C. § 101 for being directed towards non-statutory subject matter. By way of this and a previous reply, claims 42-45, 88, and 116-119 are cancelled, and thus the rejection is moot as to those claims. As for the remaining claims, for the reasons set forth below, the rejection is respectfully traversed.

Claims 1, 7, 11, 16-22, 24, 25, and 149

A claimed process is surely patent-eligible under 35 U.S.C. § 101 if: (1) it is tied to a particular machine or apparatus, or (2) it transforms a particular article into a different state or thing. *See, In re Bilski*, ___ F.3d ___ (Fed. Cir. 2008) (en banc).

Amended independent claim 1 is directed towards a method for collecting and aggregating creditworthiness data describing a subject company. Amended independent claim 1 recites, in part, “aggregating transaction data from the plurality of client machines using a processor to obtain aggregated transaction data; determining, using the processor, a creditworthiness rating of the subject company based on aggregated transaction data; generating, using the processor, a creditworthiness report for the subject company based on the creditworthiness rating” (emphasis added). It is abundantly clear that amended independent claim 1 explicitly requires a processor for one or more steps. In other words, amended independent claim 1 and dependent claims 7, 11, 16-22, 24, 25, 42-45, and 149 are tied to a particular machine (*i.e.*, a processor) and thus are deemed statutory subject matter under 35 U.S.C. § 101. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 49, 55, 59, 64-69, 71, 72, and 150

The Examiner contends that claims 49, 55, 59, 64-69, 71, 72, and 150 are directed to software *per se* and thus are non-statutory. *See*, Action, p.3. By way of this reply, independent claim 49 is amended to recite the existence and use of a processor and memory. Those skilled in the art will appreciate that both a processor and a memory are well known hardware elements. Accordingly, claims 49, 55, 59, 64-69, 71, 72, and 150 cannot be considered solely directed to software *per se*, and withdrawal of this rejection is respectfully requested.

Claims 81, 87, 91, 96-102, 104, 105, and 151

The Examiner contends that claims 81, 87, 91, 96-102, 104, 105, and 151 recite a medium. The Examiner further contends that the medium must be tangible and executable by a computer. *See*, Action, p.3. By way of this reply, claim 81 is amended to recite, in part, “[a] computer-readable medium comprising computer-readable code, executable on a computer, the computer-readable code comprising instructions to...” The computer readable medium may be any conventional tangible storage medium for a computer (*e.g.*, a hard disk, a CD-ROM, a tape). *See* Specification. Further, amended independent claim 81 explicitly recites that the code is executable on a computer. Accordingly, claims 81, 87, 91, 96-102, 104, 105, and 151 are deemed statutory subject matter under 35 U.S.C. § 101, and withdrawal of the rejection is respectfully requested.

Conclusion

Applicant believes this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 37202/122001).

Dated: December 18, 2008

Respectfully submitted,

By /Robert P. Lord/
Robert P. Lord
Registration No.: 46,479
OSHA · LIANG LLP
3945 Freedom Circle, Suite 300
Santa Clara, California 95054
(408) 727-0600
(408) 727-8778 (Fax)
Attorney for Applicant

Enclosure (Replacement Sheet for Figure 3)

424052_1